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U.S. BANKRUPTCY COURT
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JEANNE A. ROUGHTON
BY: [Signature] CLERK

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:
BED BATH & BEYOND INC., et al.,
Debtors,

Case No.: 23-13359 (VFP)

Chapter 11

**SAN DIEGO COUNTY TREASURER-
TAX COLLECTOR'S RESPONSE TO
DEBTOR'S SECOND OMNIBUS
OBJECTION TO CERTAIN TAX
CLAIMS AND OPPOSITION TO
MOTION TO DETERMINE TAX
LIABILITY AND STAY
PROCEEDINGS**

Date: October 24, 2023

Time: 10:00 a.m. (ET)

Judge: Honorable Vincent F. Papalia

Courtroom: 3B

Respondent Creditor, County of San Diego Treasurer-Tax Collector ("SDTTC"),
hereby responds to the Notice of Debtors' (I) Second Omnibus Objection to Certain Tax
Claims and (II) Motion to Determine Tax Liability and Stay Proceedings.

I. INTRODUCTION

The Debtors request a determination by the Court concerning their property tax
liabilities respecting various taxing authorities, including SDTTC, pursuant to Section
505(a) of the Bankruptcy Code. The Debtors contend, without evidence, that the
assessment values of their properties and tax liabilities are excessive and inaccurate.

1 However, Debtors appear to rely on their post lien date sales to value their property rather
2 than an accepted valuation methodology under California Law.

3 Section 505 of the Bankruptcy Code is discretionary, and Creditor, SDTTC asks
4 that the court abstain from entertaining Debtors' motion. Property tax assessment in
5 California is complex, and a New Jersey Court would be required to apply substantive
6 California law on issues that are intended to be decided by a local Assessment Appeals
7 Board ("AAB") under the California Constitution, placing the uniformity of assessment
8 at great risk. In addition, the burden to the court would be tremendous given the amount
9 of properties at issue and the requirement under California law that taxes be based on the
10 situs of the property. Finally, there is a substantial burden to the County, as all of its
11 appraiser staff and their legal advisor, Office of County Counsel, are located exclusively
12 in California.

13 The Debtors Motion does not comport with the purpose and objectives established
14 under Section 505(a) of the Bankruptcy Code, and Debtors' have not overcome the
15 presumptive validity of SDTTC's claim. SDTTC respectfully requests the Court deny
16 this Motion, in its entirety. Should the Court decline to abstain from hearing this matter,
17 the County hereby objects to the Debtors' introduction of any evidence at the hearing on
18 the Motion, including, without limitation, the "appraisal", and other evidence which
19 could not have been considered pursuant to applicable nonbankruptcy law.

20 **II. STATEMENT OF FACTS**

21 1. On April 23, 2023 (the "Petition Date"), the Debtors filed a voluntary
22 petition for relief under Chapter 11 of Title 11 of the United States Code (the
23 "Bankruptcy Code").

24 2. On May 10, 2023, SDTTC timely filed Proof of Claim number 606 for
25 unsecured tax bills: 23-004952, 23-004953, 23-004954, 23-004965, 23-004966 and 23-
26 004967, in the amount of \$629.07. (See Claim No. 606). On, June 5, 2023, SDTTC timely
27 filed an Amended Proof of Claim number 5491 to also include the following tax bills: 23-
28 049627, 23-049623, 23-049609, 23-049584, 23-049460, 23-049438 and 23-049194 in the

1 amount of \$25,781.54. (*See* Claim No. 5491) (Collectively the “Unsecured Priority Tax
2 Claim”). The Proof of Claim is presumptively valid. Fed R. Bankr., Rule 3001, subd. (f).

3 3. As of January 1, 2023, Debtors operated several locations in the County of
4 San Diego. (Declaration of Robert Vaughn ¶ 6).

5 4. The Assessor is required to annually assess taxable business personal
6 property as of the lien date (January 1st). Business Personal Property includes all
7 “Equipment out on lease, rent, or conditional sale to others” used in the operation of a
8 business. Business Personal Property is reported to the Assessor annually on a form
9 known as the Business Property Statement (Form 571-L). (Vaughn Decl. ¶ 3).

10 5. Form 571-L constitutes an official request from the Assessor for the
11 taxpayer to declare all assessable business property situated in the county which the
12 taxpayer owned, claimed, possessed, controlled, or managed on the tax lien date, and that
13 the taxpayer signs (under penalty of perjury). Failure to file the statement during the time
14 provided in section 441 of the Revenue and Taxation Code will compel the Assessor to
15 estimate the value of your property from other information in the Assessor’s possession
16 and add a penalty of 10 percent of the assessed value as required by section 463 of the
17 Revenue and Taxation Code. (Vaughn Decl. ¶ 3).

18 6. On or about May 4, 2023, Debtors filed their 2023 571-L business property
19 statements with the Assessor, with the statements signed true, correct, and complete by
20 their VP of Tax. (Vaughn Decl. ¶ 7). The Assessor assessed the property exactly as it
21 was reported by Debtors. (*Id.*)

22 7. SDTTC is responsible for the collection of ad valorem taxes assessed against
23 real property and personal property located in the County of San Diego. *See* Cal. Rev. &
24 Tax. Code §2903.

25 8. SDTTC issued thirteen tax bills issued for fiscal year 2023 for the personal
26 property and fixtures located within the various different locations operated by Debtors
27 based on the Assessor’s valuation. (*See* Claim Nos. 606 and 5491). These tax bills
28 represent SDTTC’s Unsecured Priority Tax Claim.

1 9. Debtors incurred the tax liabilities claimed due pursuant to California
2 Revenue & Taxation Code §§ 2191.3, 2191.4 and 2193. (Vaughn Decl. ¶ 7).

3 10. The 2023 tax bills are entitled to priority under section 507(a)(8) because it
4 was last due and payable without penalty within one year before the date the Debtors
5 filed the instant petition.

6 **III. COMPLEXITY OF CALIFORNIA PROPERTY TAX PROCEDURE**

7 The basis for assessment of all real and personal property in California is the
8 California Constitution. Specifically, all property tax assessments are established by the
9 provisions of either article XIII or article XIII A (the constitutional article adopted
10 following the passage of Proposition 13). The California Constitution requires uniformity
11 of taxation of all property in California (Cal. Const., art. XIII, § 1) and requires that all
12 property be assessed in the county, city, and district in which it is situated. Cal. Const.,
13 art. XIII, § 14.

14 There are several steps for property taxation in California all of which are
15 governed by numerous standards, procedures, and protections to ensure fair and uniform
16 application of local property tax assessments. The vast majority of the Legislature's
17 enactments with respect to ad valorem assessment are found in the California Revenue
18 and Taxation Code (hereinafter "R&T Code"). In addition, The State Board of
19 Equalization ("BOE") is mandated to prescribe rules and regulations to govern local
20 boards of equalization when equalizing and county assessors when assessing in
21 compliance with the rulemaking procedures adopted by the California Office of
22 Administrative Law. Pursuant to that mandate, the BOE has adopted various Property
23 Tax Rules which are contained in Title 18 of the California Code of Regulations. These
24 rules can be found at <https://www.boe.ca.gov/proptaxes/ahcont.htm> (last visited October
25 11, 2023) (hereinafter and cited to as "Property Tax Rules").¹

26
27 ¹ Section 15606, subdivision (c) of the Government Code authorizes that the State
28 Board of Equalization ("SBE") will "prescribe rules and regulations to govern local
boards of equalization when equalizing..."

1 Finally, local Assessors additionally rely on the Assessors' Handbook, which "is a
2 series of manuals developed by the staff of the [BOE] in an open process. The objective
3 of the Assessors' Handbook is to give county assessors, their staff, and other interested
4 parties an understanding of the principles of property assessment and real and personal
5 property appraisal for property tax purposes. Additionally, the Assessors' Handbook
6 presents the BOE staff's interpretation of rules, laws, and court decisions on property
7 assessment." (See <https://www.boe.ca.gov/proptaxes/ahcont.htm>, last visited October 11,
8 2023).

9 **A. Assessment of Personal Property**

10 The standard of valuation prescribed by the Legislature is that "[all] taxable
11 property shall be assessed at its full cash value." Cal. Rev. & Tax. Code, § 401. "Full
12 cash value," as defined in section 110 of the R&T Code, "means the amount at which
13 property would be taken in payment of a just debt from a solvent debtor." Cal. Rev. &
14 Tax. Code, § 110. "It provides, in other words, for an assessment at the price that
15 property would bring to its owner if it were offered for sale on an open market under
16 conditions in which neither buyer nor seller could take advantage of the exigencies of the
17 other." *De Luz Homes, Inc. v. County of San Diego*, 45 Cal. 2d 546, 562 (Cal. 1955).
18 Therefore, the definition of fair market value does not include the sales transactions by a
19 debtor in bankruptcy. Notably, the net earnings to be capitalized are not those of the
20 present owner of the property, but those that would be anticipated by a prospective
21 purchaser. "Id.

22 Assessors generally estimate value by analyzing market data on sales of similar
23 property, replacement costs, and income from the property (*see* 1 Bonbright, Valuation of
24 Property, pp. 113-266; American Institute of Real Estate Appraisers, The Appraisal of
25 Real Estate, pp. 75-85; Fisher, Real Estate in California, p. 157), and since no one of
26 these methods alone can be used to estimate the value of all property, the assessor,
27 subject to requirements of fairness and uniformity, may exercise his discretion in using
28 one or more of them. *Utah Const. Co. v. Richardson*, 187 Cal. 649, 652-653 (Cal.

1 1921); *Southern Calif. Tel. Co. v. County of Los Angeles*, 45 Cal. App. 2d 111, 116-118
2 Cal. App. 3d. 1941.) Significantly, with regard to personal property taxes, the assessment
3 is made based upon information supplied by the taxpayer. (Vaughn Decl. ¶¶ 4-7).

4 **B. Review of Property Tax Assessment by the Assessment**
5 **Appeals Board**

6 A property owner dissatisfied with the annual assessment must first file an
7 application for reduction with the AAB, which has authority to “equalize the values of all
8 property on the local assessment roll by adjusting individual assessments.” Cal. Const.,
9 art. XIII, § 16; Cal. Rev. & Tax. Code §1603(a). The AAB is an independent quasi-
10 judicial constitutional body, separate, apart, and independent of the Assessor’s Office.
11 *See, e.g. Westinghouse v. County of LA*, 42 Cal. App. 3d 32, 42 fns. 6 and 7 (Cal. 1974)
12 (explaining that “[t]he special expertise in property valuation assignable to county boards
13 of equalization justifies their classification as judicial bodies by California Constitution
14 article XIII, section 9...”).

15 The functioning of the AAB is governed by sections 1601 through 1645.5 of the
16 R&T Code and sections 301 through 326 of the Property Tax Rules. Section 1604(c) of
17 the R&T Code requires the AAB to hear evidence and make final determination on an
18 application for reduction of assessment of property within two (2) years of timely filing
19 of the application. Cal. Rev. & Tax. Code §1604(c).

20 In appeals involving personal property and fixtures, it may be necessary for the
21 assessor to perform an audit of the taxpayer’s records to reach a final value conclusion.
22 The Assessor would also be required to appear at the hearing to defend its valuation, only
23 after the taxpayer met its burden, and would do so based on accepted valuation
24 methodologies prescribed within the R&T Code. (Vaughn Decl. ¶ 14).

25 Subject to exceptions set by law, it is presumed that the assessor has properly
26 performed official duties. Cal. Evid. Code § 664; 18 C.C.R. §321, subd. (a); *Texaco*
27 *Producing v. County of Kern*, 66 Cal. App. 4th 1029 (Cal. 1998). The effect of this
28 presumption is to impose upon the applicant the burden of proving that the value on the

1 assessment roll is not correct, or where applicable, the property in question has not been
2 otherwise correctly assessed. Cal. Evid. Code § 660; Texaco Producing, supra, at
3 p. 1046. The law requires that the applicant present independent evidence relevant to the
4 full value of the property or other issue presented by the applicant. 18 C.C.R. § 321,
5 subd. (a).

6 **IV. ARGUMENT**

7 **A. Abstention is Proper**

8 Pursuant to 28 U.S.C. § 1334(c)(1), a bankruptcy court has “broad discretion to
9 abstain from hearing state law claims whenever appropriate ‘in the interest of justice, or
10 in the interest of comity with State courts or respect for State law.’” *Sarfani, Inc. v. Miss.*
11 *Dept. of Revenue (In re Sarfani, Inc.)*, 527 B.R. 241, 252 (Bankr. N.D. Miss. 2015).
12 Section 505(a)(1) provides an additional basis for permissive abstention, because it
13 provides that a court *may*, but is not required to, determine a debtor’s tax liabilities. *Id.*

14 Bankruptcy courts’ trend to abstain from hearing the majority of these cases and
15 these particular courts have referred to the traditional abstention principles where the
16 determination of taxes would not benefit the bankruptcy estate or the unsecured creditors,
17 or in those particular cases where such determination would interfere with the uniformity
18 of tax assessment associated with the specific tax jurisdiction in question.

19 Specifically, Bankruptcy courts have properly looked to a number of factors when
20 deciding whether to exercise their authority under section 505, including: “the complexity
21 of the tax issue; (2) the need to administer the bankruptcy case in an expeditious fashion;
22 (3) the burden on the bankruptcy court’s docket; (4) the length of time necessary to
23 conduct the hearing and to render a decision thereafter; (5) the asset and liability structure
24 of the debtor; and (6) the potential prejudice to the debtor, the taxing authority, and
25 creditors.” *In re New Haven Projects Ltd. Liability Co.*, 225 F. 3d 283, 289 (2d Cir.
26 1999) (finding that unsecured creditors would not meaningfully benefit from section 505
27 review and such review would frustrate the purpose of the statute). *See also In re*
28 *Lyondell Chem. Co.*, 2010 Bankr. LEXIS 1271 at *6 (Bankr. S.D.N.Y. Apr. 19,

2010)(finding these factors weighed in favor of abstention); *ANC Rental Corp. v. Dallas County (In re ANC Rental Corp.)*, 316 B.R. 153, 159 (Bankr. D. Del. 2004); *In re Galvano*, 116 B.R. 367, 372 (Bankr. E.D.N.Y. (1990) (exercising discretion to abstain based on these factors).

1. California Property Tax Law is Complex and Equalization Should be in the Hands of the Local Assessment Appeals Board.

As detailed in Section III above, California property tax law is extremely complex. Debtors attempt to ignore this complexity and ask the court to take an approach to valuation that is not consistent with California law, which the court must apply if it were to consider the 505 motion. *See CM Reed Almeda I-3062, LLC v. Harris Cnty. (In re CM Reed Almeda I-3062, LLC)*, 2017 Bankr. LEXIS 1155, *24-25 (BAP 9th Cir. 2017).

There are three major appraisal approaches for estimating value (cost, comparative sales, and income). The nature of the property, its market, and the availability of data will normally indicate which approach(es) is most applicable. This is supported by Property Tax Rule 3, which states, in part: In estimating value as defined in section 2, the assessor shall consider one or more of the following [approaches to value], as may be appropriate for the property being appraised. 18 C.C.R. § 3. Moreover, Property Tax Rule 324 requires that the taxpayer appealing an assessment value “shall be bound by the same principles of valuation that are legally applicable to the assessor.” 18 C.C.R. § 324. Although Debtors discuss fair market value in their motion, Debtors make no reference to any other principles governing valuation in California. (*See Lambert Decl.* ¶¶ 1-14.) There is simply no basis for the court to analyze the debtors’ tax liability differently simply because Debtors filed bankruptcy. *See Raleigh v. Illinois Dep’t of Revenue*, 530 U.S. 15, 20 (2000).

There is an efficient review process available to Debtors within each of the local taxing authorities jurisdiction, and “it seems most appropriate that the debtor in chapter 11 proceed with the systems already in place” for determining its state tax liability, “rather than substituting this court for that process.” *In re the Village at Oakwell Farms, Ltd.*, 428 B.R. 372, 375 (Bankr. W.D. Tex. 2010). This is particularly so when the debtor

1 is asking a New Jersey bankruptcy court to determine California tax issues; “why should
2 this court “start from scratch” when there is a more efficient tribunal that can determine
3 the valuation issues under applicable state law? “*In re CM Reed Almeda 1-3062, LLC*,
4 2017 Bankr. LEXIS at *24-25; *see also In re Altegrity, Inc.*, 544 B.R. 772, 778 (Bankr.
5 D. Del. 2016) (Delaware bankruptcy court abstained from determining debtor’s
6 Oklahoma tax liability, because debtor was already pursuing relief before Oklahoma Tax
7 Commission).

8 2. Uniformity of Assessment is at Stake

9 Many courts have found abstention to be appropriate when uniformity of
10 assessment is at issue. *Central Valley Ag Enterprises*, 531 F. 3d 750, 764 (9th Cir. 2008)
11 (recognizing that uniformity of assessment is a basis for abstention); *In re New Haven*
12 *Products Ltd. Liability Co.*, 225 F. 3d at 288 (same); *In re Cable & Wireless USA, Inc.*,
13 331 B.R. 568, 577-78 (Bankr. D. Del. 2005) (“Each tax authority must enjoy and apply a
14 uniformity of assessment within its tax jurisdiction.”); *In re ANC Rental Corp.*, 316 B.R.
15 163,159 (Bankr. D. Del. 2004) (abstention is often used where uniformity of assessment
16 is an issue); *Metromedia Fiber Network, Inc. v. Various State and Local Taxing*
17 *Authorities (In re Metromedia Fiber, Inc.)*, 299 B.R. 251, 281 (Bankr. S.D.N.Y. 2003).
18 Additionally, it would be prejudicial to California counties to have a New Jersey
19 bankruptcy court determine the state tax issues implicated in the 505 Motion. *In re ANC*
20 *Rental Corp.*, 316 B.R. at 159 (finding that a local taxing authority in Texas would “be
21 significantly prejudiced by having the taxes at issue determined by a Delaware court.”)

22 County Assessors are required to attend and present evidence at a hearing on the
23 appeal of an assessment. They should not be required to travel out of state, unrepresented
24 by County Counsel, to present evidence in a New Jersey bankruptcy proceeding. A
25 valuation hearing in New Jersey would be very burdensome on the Assessor. Assessor
26 staff is located exclusively in the County of San Diego within the State of California.
27 Assessor staff only appear in administrative proceedings before the Assessment Appeals
28 Board, which are not formal court proceedings. (Vaughn Decl. ¶¶ 16-17). The County’s

1 legal advisor is the County Counsel, and Senior Deputy County Counsel, Laura E. Dolan
2 is the specific legal advisor to the Assessor. Ms. Dolan is not barred in New Jersey and is
3 unable to represent the Assessor at a valuation hearing in a New Jersey court. (*Id.*)

4 Uniformity of Assessment is of the utmost importance to the Assessor and required
5 under the California Constitution. This uniformity will be placed at risk should an out of
6 state court, rather than our local Assessment Appeals Board, make a valuation
7 determination at a hearing without the Assessor present, and based on valuation methods
8 that are not accepted under the R&T Code. (Vaughn Decl. ¶ 18).

9 3. The Court's Consideration of the 505 Motion Will
10 Unnecessarily Burden the Court

11 Debtors failed to present any evidence to demonstrate that the court's consideration
12 of their 505 Motion would result in a more efficient administration of this estate. In fact,
13 Debtors ignore the tremendous burden a 505 determination would place on the court's
14 docket. Debtors are not just contesting the tax liability in a single County, Debtors are
15 contesting tax liability in 26 separate and distinct counties. (*See* Doc. No. 2180
16 [contesting liability in nine different counties] and Doc. No. 2181 [contesting liability in
17 17 different counties]). In addition, some of the counties, including SDTTC, have
18 numerous property tax bills at issue.

19 California property tax law does not permit the bulk valuation of property across
20 counties. Instead, the California Constitution requires that all property be assessed in the
21 county, city, and district in which it is situated. Cal. Const., art. XIII, § 14. Therefore,
22 each counties' assessment should be determined at a separate and distinct evidentiary
23 hearing. It is unclear how 27 separate hearings in a New Jersey Bankruptcy Court on
24 California property tax issues promotes the purpose of section 505. Given this court's
25 other commitments, there is no reason to believe that it could hear and determine the
26 issues Debtors have raised more efficiently than the local AABs, which are designed
27 exclusively for this purpose. Moreover, because the R&T Code requires that the hearing
28 take place within two years, there is not a risk of delay.

1 Debtors have not set forth any argument or evidence as to how this court's Section
2 505(a)(1) determination would benefit other creditors or result in the efficient
3 administration of this case. Instead, it appears that Debtors are attempting to circumvent
4 state property tax law and avoid paying priority tax claims, thereby benefiting only the
5 Debtors (and not the creditors).

6 **B. Debtors Valuation Does Not Comply with Property Tax Rules**

7 Even if the Court were to determine the valuation of Debtors' property under
8 section 505, Debtor has not met their burden. As explained above, the property owner
9 has the burden of proving that the assessor has improperly valued the property, and
10 Debtors are bound by same methods of valuation as Assessor. Debtors cannot meet this
11 burden because their appraisal completely ignores the approaches to value accepted under
12 California law. (*See* Lambert Decl. ¶¶ 1-14.)

13 Rather than asking this court to apply state law, as the court is required to do,
14 Debtors appear to be arguing that the valuation methods prescribed under the laws of
15 California are erroneous. (*See* Lambert Decl. ¶ 5 [blanketly attacking the valuation
16 methods used across the state of California]). Debtors then attempt to circumvent state
17 law by lumping all the assessments of their property across jurisdictions together and
18 asking this court to consider its post lien date sales during Debtors' insolvency. (*See*
19 Lambert Decl. ¶¶ 6-13; Vaughn Decl. ¶¶ 3,15).

20 Contrary to Debtors' argument, "full cash value," as defined in section 110 of the
21 R&T Code, "means the amount at which property would be taken in payment of a just
22 debt from a *solvent* debtor." Cal. Rev. & Tax. Code §110 (*emphasis added*). It does not
23 include sales Debtor made after the lien date under exigent circumstances. Per the
24 Assessor's Handbook 504 p. 130, sales of assets from a bankruptcy estate should not
25 necessarily be considered valid indicators of market value under the definition of
26 Revenue and Taxation Code section 110. (*See* Assessors' Handbook 504, p. 50, 130
27 [recognizing that the buyer of property from a bankrupt's estate has the ability to take
28 advantage of the exigencies of the seller.]).

1 **C. Debtors Have Not Produced Sufficient Evidence to Negate the**
2 **Prima Facie Validity of the Tax Collector's Claim**

3 It is well settled that the timely filing of a Proof of Claim is prima facie evidence of
4 the validity and amount of the claim pursuant to Federal Rule of Bankruptcy Procedure
5 3001(f). *See also, In re Mid-American Waste Sys.*, 284 B.R. 53, 65 (Bankr. Del. 2002);
6 Once a proof of claim is properly executed and filed “it is a debtor who bears the initial
7 burden of going forward to produce evidence sufficient to negate the prima facie validity
8 of the filed claim.” *In re Desert Village Ltd. P'ship*, 321 B.R. 443, 446 (Bankr. N.D.
9 Ohio 2004) (emphasis added) (citing *Morton v. Morton (In re Morton)*, 298 B.R. 301,
10 307 (B.A.P. 6th Cir. 2003); *see In re Allegheny International, Inc.*, 954 F. 2d 167, 176
11 (3d Cir. 1992) (burden shifts to objector to produce sufficient evidence to negate the
12 prima facie validity of the filed claim); *In re Planet Hollywood International*, 274 B.R.
13 391, 394 (D.Del. 2001). “This evidence must be a probative force equal to that of the
14 creditor’s proof of claim.” *In re Hinkley*, 58 B.R. 339, 348 (Bankr. S.D. Tex. 1986),
15 *aff’d.*, 89 B.R. 608, *aff’d.*, 879 F.2d 859. Stated another way, “the objecting party must
16 come forth with evidence which, if believed, would refute at least one of the allegations
17 essential to the claim.” *In re Rally*, 245 B.R. 768, 773 (B.A.P. 2d Cir. 2000). Only when
18 “the debtor has met that burden, the burden of going forward shifts back to the creditor,
19 and the creditor bears the ultimate burden of persuasion.” *Morton*, 298 B.R. at 307.

20 Moreover, where a claim is based on statute, not a writing, a taxing agency is not
21 required to attach documentation to its proof of claim in order to retain the presumption
22 of validity. *In re Los Angeles Intl. Airport Hotel Assoc.*, 106 F. 3d 1479, 1480 (9th Cir.
23 1997). A debtor taxpayer disputing a tax claim in bankruptcy has the burden of proving
24 it does not owe the tax. *Raleigh v. Illinois Dept. of Revenue*, 530 US 15, 21-26 (2000).

25 Accordingly, SDTTC retains the presumption of validity, and the burden remains
26 with the Debtor to present evidence that the tax claim is invalid, paid or otherwise
27 inapplicable. *See In re Bryant Tool & Mfg., Inc.*, 16 B.R. 723 (Bankr. S.D. Fla. 1982); *In*
28 *re Vic Snyder, Inc.*, 50 B.R. 631 (Bankr. E.D. Pa. 1985); *In re Lanza*, 51 B.R. 125 (Bankr.

1 D.N.J. 1985); *In re Lipetzky*, 66 B.R. 648 (Bankr. D. Mont. 1986); *In re Brickell Inv.*
2 *Corp.*, 85 B.R. 164. (Bankr. S.D. Fla. 1988). In the case of tax claims, burden of proof and
3 persuasion is upon debtor taxpayer and Bankruptcy Rule 3001(f) was held not to shift the
4 burden of proof to the taxing agency. *In re Cobb*, 135 B.R. 640 (Bankr. D. Neb. 1992).

5 **CONCLUSION**

6 Debtors' 505 Motion involves only state law issues. Resolution of those issues is
7 more complex than asserted by the debtor, and administration of the bankruptcy estate
8 would not be affected if the court were to abstain. There are no "core" bankruptcy matters
9 to be severed, and the evidentiary hearing required to determine the 505 Motion would
10 place a burden on the court's docket. As a result, the court shall abstain from
11 determining any of the other tax years at issue in the Motion to Determine Tax
12 Liability Pursuant to 11 U.S.C. § 505. Its exercise of jurisdiction under 11 U.S.C.
13 § 505(a)(1) is permissive, and the court should find that abstention appropriate in the
14 interests of comity under 28 U.S.C. § 1334(c)(1).

15
16 DATED: October 16, 2023

CREDITOR COUNTY OF SAN DIEGO

17 TREASURER-TAX COLLECTOR

18 By: /s/ *William Jernigan*
19 William Jernigan
20 Supervisor, Special Functions
21 Treasurer-Tax Collector
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